

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ABDUL-AZIZ RASHID MUHAMMAD,

Plaintiff,

v.

Civil Action No. 2:07cv18

**HARLEY G. LAPPIN, HAROLD WATTS,
K.M. WHITE, B.A. BLEDSOE, J.D. HILL,
JANET BUNTS, DORIS WILLIAMS,
M.B. LICHTY, R.G. MCLEOD, DANE HEADY,
DON BETLER, STEVE HAMLING,
PAMELA BENDER, TERESA PUCKETT,
DAVID BUCKINGHAM, ERICA MASTELLER-BORAM,
LT. R. PROFFITT, DEBORAH LIVINGSTON,
TRACY JONES, JANE AND JOHN DOES,
BETHANEY COX, JOHNATHAN STEVENS,
and ALL OTHER UNKNOWN NAMED OFFICIALS,**

Defendants.

ORDER

It will be recalled that on October 24, 2008, Magistrate Judge Kaull filed his Report and Recommendation, wherein the Plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. Plaintiff filed his objections on November 10, 2008.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Plaintiff in his Complaint, brought pursuant to Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), wherein Plaintiff alleges a violation of his Eighth Amendment right to be free from cruel and unusual punishment by a denial of medical care, were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Upon review of the

Plaintiff's objections, the Court finds that the Plaintiff has not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Kaul's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's Complaint shall be, and the same hereby is, **DISMISSED with prejudice**. It is further

ORDERED that the Plaintiff's Amended Complaint (docket #18) shall be, and the same hereby is, **STRICKEN** from the record and the defendants added as a result of that document to **TERMINATED** from this case. It is further

ORDERED that the Clerk shall enter judgment for the Defendants. It is further

ORDERED that the above-styled civil action shall be **STRICKEN** from the docket of this Court. It is further

ORDERED that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the

alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

The Clerk of the Court is directed to transmit a copy of this Order to all parties appearing herein.

ENTER: September 23, 2009

/s/ Robert E. Maxwell
United States District Judge